

A bill to be entitled an act to amend the second section of an act for the incorporation of the town of Paris, the county seat of Lamar county.

Read third time and passed.

A bill to be entitled an act to allow set offs in certain cases, read; and,

On motion of Mr. Wallace, laid upon the table.

On motion of Mr. Perkins,

A bill to be entitled an act supplemental to, and explanatory of an act entitled "an act regulating attachments" approved January 28th, 1839; was taken up and referred to the committee on the Judiciary.

Joint Resolution in behalf of Edward A. Weyman a resident citizen of the county of Nueces.

Read third time and passed.

A bill to be entitled an act to amend "an act to establish the several Judicial Districts of the District Courts."

And a bill to be entitled an act to establish the Judicial Districts of the District Court, together with the report of the select committee offering a substitute therefor, was read;

And on motion of Mr. Perkins, were made the special order of the day for Monday next.

A bill to be entitled an act for the relief of the widow and heirs at law of Major James S. Holmes, deceased.

Read first time.

On motion of Mr. Bourland, the Senate adjourned until 10 o'clock to-morrow morning.

Saturday, 10 o'clock, A. M.

February 12th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Bache, Burleson, Clark, Cuny, Dancy, Gage, Grimes, Jewett, McRae, Navarro, Perkins, Phillips, Wallace, Williams, Williamson and Wootten—quorum present.

The Journal of the preceding day was read and adopted.

Mr. Perkins presented the petition of Samuel W. Fisher, which was referred,

On motion of Mr. Perkins, to the committee on Claims and Accounts.

Mr. Dancy presented the petition of J. W. E. Wallace, praying for relief, which was read; and,

On motion of Mr. Burleson, referred to a special committee.

Messrs. Burleson, Williams and Wootten were appointed said committee.

Mr. Gage, Chairman of the committee on counties and county boundaries made the following reports, viz:

The committee on counties and county boundaries, to which was referred a bill to be entitled an act to establish the county seat of Grimes county have had the same under consideration and instructed me to report it back to the Senate, and recommend its passage.

The committee on counties and county boundaries, to which was referred a bill to be entitled an act to change the names of the counties of Cameron, Webb and Starr, have had the same under consideration, and a majority of said committee have instructed me to return the bill to the Senate, with a substitute for the same, and recommend its adoption in place of the original bill.

The committee on counties and county boundaries, to which was referred an act to create the county of Kaufman, have had the same under consideration and recommend its passage, with the following amendment.

In second section, second line, after "William Price," insert the names of "S. G. Parsons and Abner Johnson."

Mr. Abbott, Chairman of the committee on Enrolled Bills, reported an act to amend the 3rd section of an act entitled an act concerning slaves, approved February 5th, 1840, correctly enrolled, and that said act was transmitted to the Governor on the 11th inst. for approval.

Mr. Dancy from the committee on Claims and Accounts made the following report:

The committee on Claims and Accounts, to whom was referred "a Joint Resolution, making an appropriation for the payment of the *pro rata* pay, due E. W. Moore, Post Captain commanding late Texas Navy, under the provisions of an act of Congress of the Republic of Texas, approved 5th Feb., 1844; after considering the same, report—

That three of the committee were present; one was in favor of the "Joint Resolution," and two were against it.

A majority do not believe it proper to open the Treasury, for the payment of old claims at this time. As there is a diversity of opinions on the subject of this resolution among the members of the committee, and as the Senate has taken a deep interest in the settlement of Commodore E. W. Moore's claims, the committee have instructed me to return the "Joint Resolution" to the Senate, in order that the majority may act on the matter as they may think proper.

JON W. DANCY,
Acting Chairman.

A message was received from the House of Representatives, informing the Senate, that the House had passed the following bills, viz:

A bill to be entitled an act to incorporate the town of Mount Pleasant, in Titus county.

Also, a bill to be entitled an act to incorporate the Berkley Academy of Montgomery county.

Also, that the House had concurred in the amendment of the Senate to the following bills and joint Resolutions, viz:

A bill to be entitled an act to organize the militia of Newton county.

A bill to be entitled an act to create the county of Gillespie, and

Joint Resolution requiring the Commissioner of the General Land Office to issue a patent in the name of the heirs of William P. Nunn.

Also, that the House had concurred in all the amendments of the Senate to a Joint Resolution instructing our Senators and requesting our Representatives in the Congress of the Uni-

ted States, to procure additional mail service, with the exception of the 1st amendment, which they refuse to concur in.

Also, that the House had appointed Messrs. Burroughs, Pease, Crutcher, Stuart and Runnels, a committee of conference on a bill to be entitled an act for the relief of those persons who are indebted to the State on account of public dues payable in the Promissory Notes of the late Republic, and request the appointment of a like committee on the part of the Senate.

Mr. Dancy made the following report:

Committee Room,
February 11, 1848.

J. A. GREER

President of the Senate:

The committee on Claims and Accounts, to whom was referred the petition of Luis Sanchez, instruct me to report, that it has been shown to their satisfaction, that Captain Sanchez, as directed by General Rusk, in 1837 and 1839, took under his care a number of destitute women and children, who were left unprotected after the rebellion of 1838, near Nacogdoches.

The Quarter Master was allowed a large amount for supporting others similarly situated, and the committee feel satisfied that Captain Sanchez ought to have been paid at the same time. From some cause he was complimented, but not paid for his services. Captain Sanchez is a Mexican, who has been true to Texas under the most trying circumstances. He has involved himself by relieving those who were committed to his care. His farm has been sold to pay debts contracted to administer to the wants of the destitute. Acting as he believed in the cause of his country, and endeavoring to give comfort to suffering humanity, he comes before the Legislature with peculiar merit: and if there is a disposition to relieve anyone, a helping hand should be extended to Captain Sanchez, who at the call of his country, did not hesitate to involve himself for the purpose of relieving the distresses of the unfortunate. If Captain Sanchez had been an American, and acted as he has done, he would have been as meritorious as any one who has presented his claims to the Senate. But when we recollect

that he belongs to a people, against whom the strongest prejudices exist in Texas, and that, in spite of every thing, he has been true to the Republic, while many of his countrymen were in arms against us, and has stepped forward at the call of his country, to relieve the innocent victims of an unfortunate rebellion, we are forced to believe that his claim is equal, if not superior to any which has been presented to this Legislature.

This committee, (although they were satisfied that Stuart Perry had a good claim against Texas for a large amount of money,) reported his claim back to the Senate, and believing it inexpedient to make appropriations of money to pay old debts, recommended that it be postponed until the Legislature should act upon the subject of the public debt.

They still think that the Treasury is not in a condition to justify us in paying old debts. But to place this matter fairly before the Senate, the committee now return the papers, and say, that if the Legislature is disposed to pay any claims, they can see no good reason why this should be passed by.

JON W. DANCY,
Acting Chairman.

Mr. Williams made the following report;

Committee Room,
Austin, February , 1848.

Hon. J. A. GREER,
President of the Senate:

The committee on Internal Improvements, to which was referred a Resolution of the Senate, requiring this committee to enquire into the expediency of incorporating a Joint Stock Company for the purpose of removing obstructions in, and rendering navigable the Trinity river; have had the same under consideration, and after availing themselves of every information which could in any way furnish a data upon which to form a report. The subject seems to embrace the following considerations for discussion.

1st. The constitutionality of an act incorporating such a company as the Resolution contemplates.

2ndly. The policy of such an act, and

3dly. The practicability of rendering the Trinity River Navigable, and by what system of improvement.

Under the first division of the subject is considered the constitutionality of such an act, as the Resolution contemplates, which the committee entertain no doubt. Yet the committee believe this power should be exercised with great caution, and care should be observed in framing every act, having for object the incorporation of Joint Stock Companies, so as to guard against the pernicious effect of monopolies in Governments like ours, to grant an exclusive privilege to a company to improve and navigate our rivers would create a monopoly which this committee could not recommend.

Our Constitution wisely provides that "no private corporation shall be created unless the bill creating the same shall be passed by two-thirds of both Houses of the Legislature," which bill, at all times, have a tendency to protect the State against an improper exercise of the power delegated, and the Legislature should investigate every application for such corporation, and become fully satisfied that the improvement proposed will be of benefit and convenience to the community in the midst of which it is to be made, and at the same time of benefit to the State.

That the improvement of the navigation of this river will be of great convenience and benefit to the citizens residing on or near the same, and at the same time greatly increase the value of their property, the committee entertain no doubt.

Lands lying adjacent to this river cannot be surpassed in the fertility of the soil, producing every variety of grain, in addition to the usual products of the same latitude, and only require facility of transportation to induce capitalists at once to settle and occupy the entire country through which it passes, causing lands to become more valuable, enriching their present owners, and at the same time greatly increasing the revenue of the State.

As it regards the policy of granting a charter for the improvement of this river, the committee could urge that it would at once bring to notice that portion of the country in which the State has perhaps more direct interest than in any other. Two large colonization grants have been made upon this river, and by a provision in each, the State reserves the right to each alternate section of land, which is yet to be disposed of by the State, the value of which will be increased tenfold by such

improvement. In addition to this the committee believe that the completion of this work will insure its speedy connection with Red River, by rail road or turnpike; thereby furnishing an outlet from that portion of the State bordering on Red River through our own ports, and by which our planters on the Gulf and other parts of the State can be furnished with every article of provisions wanting, at a lower price than by New Orleans. From the result of several years experience, no portion of the United States can compete with the Northern prairies of our State in the cultivation of wheat, our harvest being from four to six weeks earlier than in Ohio—our climate more dry, we will be thereby enabled to have our flour in market upon the Gulf, earlier, which will secure to our farmers many advantages which the farmers of other States can never possess; and when the committee believe that it certainly should be the policy of the State to protect every interest, know of no better means than by internal improvement, when the same has the for its object, and in this instance, connect the North with the South, and the interest of each will be reciprocally protected the North can furnish the South with its flour, and receive in exchange its sugar.

But in addition to this, the committee cannot close this part of their report without expressing their views upon the importance of such a work as a national object—render the Trinity river navigable, and connect it with the Red River, and we have at once an inland route from Galveston to the northern cities, without sea risk, and in the event of war and blockade the planters of the south can find markets for their crops, and receive therefrom their manufactures, and thereby in a great measure avert the calamities incident to war, and at the same time furnish a certain and easy transit of troops, as well as munitions of war; under this view alone the committee could not hesitate to recommend the incorporation of such company as the resolution would seem to contemplate.

The practicability of this improvement has been considered so far as the committee have been able to obtain information relative to this river, and the result of our investigations enable us to arrive at the following conclusions. This river is almost a natural canal, so far as regards its width, varying from one to two hundred feet, that its shoals are few, with but little fall, and its natural reservoirs extensive—that the river above the shoals near Carolina, does not furnish a quantity of water at

all seasons to render the same navigable, by the ordinary mode of opening a channal through the shoals—that such a mode of improvement on this river would have the effect of drawing down these natural reservoirs, and leave exposed many shoals and bars which are now covered and offering no obstruction; to guard against which and to improve the shoals, so as to permit vessels to pass, the committee would recommend that system of improvement now in use in many parts of the United States, commonly called slack-water navigation, by means of dams and locks, believing that the river at all times furnishes a sufficiency of water under this system for navigation purposes, as high up as the town of Buffalo or Taos. The average height of the banks being something over twenty feet, dams may be safely constructed across the river, at the lower termination of the shoals, with a lock therein, by which the water may be raised of sufficient height upon the shoal, to permit vessels to pass the same and proceed to the next obstruction; under this system the committee believe that this river can be rendered navigable for vessels drawing three feet water, (throughout the year) as high up as Taos, for the sum of three hundred and thirty thousand dollars, as will appear from the following estimates.

For removing snags and bars below Carolina, the committee have not been able to obtain as much information as they could desire, and for which reason have been induced to place to that estimate the highest amount suggested by any one acquainted with that part of the river, viz: \$50,000

Falls at Carolina, supposed to be 18 or 20 feet in two miles, and will require three locks,	3
From Carolina to Robbins' ferry, 75 miles, supposed fall 50 feet, and will require seven locks,	7
From Robbins' ferry to Taos, 175 miles, supposed fall 146 feet, and will require twenty-one locks,	21

Whole number of locks,	31	
Supposed cost,		255,000
For removing projecting timber from the banks,		25,000

\$330,000

And the committee believe, that nothing will be required to

insure the subscription of every dollar of the stock of such company but the report of a competent engineer, and that the profits to arise from the same, would likewise prompt its owners to an early completion of the work, therefore have instructed me to report a bill incorporating such company and to recommend its passage.

WILLIAM M. WILLIAMS,
Chairman of the Committee on Internal Improvements.

A bill to be entitled an act to incorporate the Trinity Navigation Company—read 1st time.

Mr. Perkins chairman of the committee on Engrossed Bills, reported a joint resolution for the benefit of the Texas volunteers, called into the service of the country in the year 1846, and a bill to be entitled an act to locate the county seat of Cass county—correctly engrossed.

Mr. Jewett, chairman of the committee on Indian Affairs, made the following report:

Committee Room,
February 12th, 1848.

Hon. JOHN A. GREER,
President of the Senate:

The committee on Indian Affairs, to whom was referred a resolution, instructing them to inquire into the expediency of memorializing the Congress of the United States to establish a line of military posts, from Fort Washita to Paso del Norte, to establish that line as the temporary Indian boundary, and to remove all Indians now in Texas north of the same, have had the resolution under consideration, and report, that they deem it a more appropriate method of presenting the matters of the resolution, to adopt in place of a memorial, joint resolutions instructing our Senators and requesting our Representatives to procure the necessary Congressional action.

The committee believe that the mutual interest of the frontier settlements and the Indians themselves, would be better promoted by establishing a Cordon of Military posts, on a different line from that indicated in the Resolution, and therefore recommend the establishment of posts between the following points, viz: where the hundredth degree of west longitude, in-

tersects Red River, thence to the junction of the Rio Puerco and the Rio Bravo del Norte.

The adoption of this temporary line, remote from the present settlements, will have a tendency to diminish the possibility of difficulties and collisions between settlers and the Indians, which almost unavoidably arise, wherever the white man and the red remain in juxtaposition. It is believed that the territory above the line recommended, affords ample hunting grounds and range, for the support of the various tribes of Texas Indians. The establishment of this line will also cause the frontier settlements to be extended immediately to the neighborhood of the stations, and enable many citizens to occupy their lands and make permanent improvements thereon, which they have hitherto delayed doing, from a desire to prevent any interruption of the friendly relations which subsisted between the Indians and the Government of Texas, before annexation to the United States, and from a disposition not to embarrass the efforts of the General Government, for the continuance of the subsisting peaceable relations of the various tribes.

In connection with the matters under consideration, the committee deem it important at this time, to notice the subject of our Indian affairs, and the proper attitude which the Government of the United States ought to assume towards the border tribes of Texas. Already complaints have reached the Legislature, that citizens have been forcibly removed from their homes by the Indian agent of the United States, and unless prompt measures are adopted, for regulating more clearly trade and intercourse with the Indians, and for the assertion of the rights of our own citizens, further embarrassments may occur, and hostilities with the Indians may be unexpectedly recommenced.

By annexation to the United States, Texas lost none of her rights to the territory now occupied by the migratory Indians within her limits, nor was the jurisdiction over the soil of that territory ever ceded to the Federal Government. None of the rights of soil which Texas possessed as an independent nation, were impaired or surrendered by annexation. Of these rights Texas has lost none, but has acquired the right to claim and receive from the General Government, protection of the frontier from Indian depredations, and a guaranty for the preservation of the subsisting treaty with the Indians for peace and amity.

The right to regulate commerce with the Indian tribes conferred by the Constitution on Congress, is a limited power, and cannot be construed to give the general government any power to dispose of the territory now occupied by the Indians, nor any authority to interfere with their location and position within the State limits, except so far as it may be indispensably necessary to carry into effect the powers specially delegated to regulate commerce. No Indian boundary line was ever recognized by the authorities of Texas before annexation, nor does the Indian treaty ratified February 15th, 1847, by the Senate of the United States, recognize such line. No title to the soil has ever been acknowledged by Texas, to exist in the Indians, but the eminent domain has always been asserted, and as circumstances rendered it expedient, has always been enforced by Texas.

The committee have examined the annual report of the Commissioner of Indian Affairs at Washington, and regret to perceive that this officer evidently misunderstands the rights and relations of the State, in regard to the Indian tribes. It is intimated in that document that Texas has disposed of lands within the Indian country, and that citizens are settling on the lands without having first obtained the consent of the Indians therefor. Texas has never supplicated the Indians for their consent to her citizens' occupation of the country. These tribes, suffering for many years from a vigorous system of warfare, first sued Texas for peace, and it was granted; but no right to the soil was ever acknowledged or yielded to them, nor any boundaries defined within which our settlements should be circumscribed.

The history of the many unfortunate collisions between the General Government and other State authorities and the Indian tribes, who have been located within their limits, should admonish us to make an early and bold assertion of our state rights—to submit to no infringement of our jurisdiction, and to be prepared at all times to enforce that right of control over the soil and the Indians, which has never been divested from the State:

The policy of the last Legislature was declared explicitly by a joint resolution approved April 29th, 1846, in which it was asserted, "that they recognized no title in the Indian tribes resident within the limits of the State to any portion thereof, and that they recognized no right in the government of the United States

to make any treaty of limits with the said Indian tribes, without the consent of the government of the State."

A steady adherence to this policy, the committee believe will best promote the welfare of the State. The United States ought to establish, as your committee believe, a line of posts, adequate for the protection of the frontier; but the general government has not the power, nor ought it to give any assurance to the Indians, for title to the soil, or for the establishment of fixed boundaries. This matter should properly be left for future regulation by the General Government, by and with the consent of our State Government.

Entertaining these views in regard to the proper policy to be adopted by the General Government and by the State, towards the Indian tribes within our limits, the committee submit the following Resolutions of Instructions to our Senators, and recommend their adoption.

HENRY J. JEWETT,
Chairman.

EDWARD BURLESON,
JAMES B. WOOTTEN,
D. GAGE,
EDWD. FITZGERALD.

Joint resolution accompanying the report was read first time.

On motion of Mr. Williamson, 200 copies of the report were ordered to be printed.

Mr. Burleson introduced a bill to be entitled an act for the relief of James Stuart.

Read first time.

The Senate proceeded to the orders of the day.

On motion of Mr. Gage; the Senate receded from their first amendment to "a joint resolution instructing our Senators and requesting our Representatives in the Congress of the United States to procure additional mail service."

On motion of Mr. Williamson, a committee of conference was appointed on a bill to be entitled an act for the relief of those persons who are indebted to the State on account of public dues payable in the promissory notes of the late Republic.

Messrs. Williamson, Wallace and Grimes were appointed said committee.

A bill to be entitled an act to locate the county seat of Cass county.

Read third time and passed.

A bill to be entitled an act for the relief of the widow and heirs at law of Major James L. Holmes, deceased.

Read third time and passed.

Joint resolution for the benefit of the Texas volunteers called into the service of the country in the year 1846.

Read third time and passed.

Mr Jewett, by leave, introduced a joint resolution for the relief of Luis Sanchez.

Read first time.

A bill to be entitled an act for the relief of those persons having promissory notes cancelled by A. A. M. Jackson, as agent, &c., which said promissory notes have not been funded nor redeemed.

Read second time, and

On motion of Mr. Abbott, referred to the committee on Finance.

A bill to be entitled an act to legalize the marriage of Eli Gray with Ann Eliza Gray.

Read second time, and

On motion of Mr. Brashear, referred to the committee on State Affairs.

A bill to be entitled an act to define the boundaries of the county of Refugio.

Read second time, and

On motion of Mr. Phillips, referred to the committee on Counties and County Boundaries.

A bill to be entitled an act authorizing and requiring the transfer of the succession of Alexander Jordan, deceased, from Nacogdoches to Rusk county.

Read second time, and ordered to be engrossed.

The report of the committee on Private Land Claims on "a bill to be entitled an act for the relief of William K. Melton," and on "the petition of James A. Mason, attorney of the widow of John Joseph Odenath," was read, and

On motion of Mr. Williamson, made the special order of the day for Thursday next.

The report of the committee on Private Land Claims, on the "petition of B. I. Thompson, administrator and representative of Patsey Lewis, deceased, was read, and,

On motion of Mr. Williamson, made the special order of the day for Thursday next.

A bill to be entitled an act to amend the 1st section of an act supplementary to an act regulating the sale of runaway slaves, approved January 27th, 1844, together with the report of the committee on State Affairs, offering amendments thereto, was read, and report adopted.

Mr. Navarro moved to amend by striking out the words "or west of."

Adopted.

Mr. Gage moved to amend by striking out, "whose owner does not live in any of the counties on said river."

Adopted.

On motion of Mr. Bourland, the bill was laid upon the table.

A bill to be entitled an act to establish the University of Eastern Texas, reported by the committee on Education, was read first time, and

On motion of Mr. Wallace, the rule was suspended.

Bill read second time, and ordered to be engrossed.

On motion of Mr. Gage, joint resolution relative to a division of the Supreme Court, was taken up and read.

Mr. Jewett moved to strike out "three places" and insert "two."

Upon which the yeas and nays were called and stood thus:

Yeas—Messrs. Bourland, Cuny, Dancy, Jewett, McRae and Wallace—6.

Nays—Messrs. Brashear, Bache, Burleson, Clark, Gage, Grimes, Navarro, Perkins, Phillips, Williams, Williamson and Wootten—12.

So the amendment was rejected.

Mr. Gage moved to amend by striking out the words "by the Legislature of the State of Texas."

Adopted.

The yeas and nays were then called on the adoption of the resolution, and stood as follows:

Yeas—Messrs. Brashear, Bache, Clark, Gage, Grimes, Phillips, Wallace, Williams and Wootten—9.

Nays—Messrs. Bourland, Burleson, Cuny, Dancy, Jewett, Navarro, Perkins and Williamson—8.

Resolution adopted, and,

On motion of Mr. Phillips, referred to the committee on the Judiciary.

On motion of Mr. Clark,

A bill to be entitled an act to prescribe the times and places of holding the Supreme Court, was taken up and referred to the committee on the Judiciary.

On motion of Mr. Gage, the nomination of Amos Clark for Judge of the Sixth Judicial district, was taken up.

Mr. Gage moved that it be made the special order of the day for Monday next.

Mr. Clark moved to make it the special order of the day for Saturday next.

Lost.

On motion of Mr. Wallace, it was made the special order of the day for Thursday next.

On motion of Mr. Williamson, the Senate adjourned until 10 o'clock, Monday morning.

Monday, 10 o'clock, a. m.
February 14th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names:

Messrs. Bourland, Brashear, Bache, Burleson, Clark, Cuny, Dancy, Fitzgerald, Gage, Grimes, Jewett, McRae, Navarro, Parker, Perkins, Phillips, Wallace, Williams, Williamson and Wootten.

Quorum present.

The Journal of Saturday was read and adopted.

On motion of Mr. Clark, Mr. Abbott was excused from attending on the Senate on account of sickness.